

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
v.)	Criminal No. 15-10046-LTS
)	
MARTIN LUSTGARTEN ACHERMAN, <i>et al.</i> ,)	
Defendants.)	

AMENDED ORDER FOR INTERLOCUTORY SALE

It is hereby ORDERED, ADJUDGED, and DECREED that:

The Joint Motion to Amend the Order for Interlocutory Sale of 9801 Collins Avenue, Unit 6L, Bal Harbour, Florida, is allowed.

ABM Investment Group, LLC, a Florida limited liability company, shall market and sell the real property, with all rights appertaining thereto, known as 9801 Collins Avenue, Unit 6L, Bal Harbour, Florida, including all buildings and appurtenances thereon, more particularly described in a deed recorded at Official Records Book 26822, Page 1344, of the Public Records of the Miami-Dade, Florida County (the "Bal Harbour Property").

Defendant Salomon Bendayan's counsel, Howard B. Brownstein, Esq., shall receive and hold the net proceeds of the sale of the Bal Harbour Property in the Brownstein Booth & Associates Trust Account, or other interest bearing account, pending the conclusion of this criminal case.

The interlocutory sale of the Bal Harbour Property will take place on the following terms:

- a. ABM Investment Group, LLC is to engage the services of a licensed real estate broker to aid in the sale of the Bal Harbour Property. Such real estate broker shall be paid the customary fees associated with the sale of the Bal Harbour Property, but not to exceed 6% commission. The Defendant and ABM Investment Group, LLC agree that the sale of the Bal Harbour Property shall not be made for a price less than \$1,225,000;

- b. By the time of the closing, the United States Attorney's Office for the District of Massachusetts shall provide the proper documentation to release the *Lis Pendens*, recorded on April 9, 2015, in Official Records Book 29572, Page 2502 of the Public Records of Miami-Dade County, Florida, against the Bal Harbour Property;
- c. At the closing, proceeds of the full sale price shall be transferred to the closing attorney retained to complete the sale of the Bal Harbour Property. The closing attorney shall distribute the sale proceeds in the following manner and order:
- (i) all costs and expenses reasonably incurred by the Defendant and ABM Investment Group, LLC in the sale of the Bal Harbour Property; more specifically, the real estate broker fee described in paragraph (a) above, closing attorney's fees, and tax stamps paid by the seller;
 - (ii) the cost of any comprehensive insurance on the Bal Harbour Property;
 - (iii) any outstanding real estate taxes due to Miami-Dade County or Bal Harbour, Florida with respect to the Bal Harbour Property;
 - (iv) any valid and superior liens, attachments, or encumbrances of record with respect to the Bal Harbour Property, recorded prior to the United States Attorney's Office for the District of Massachusetts's *Lis Pendens*;
 - (v) the balance owed on the Avenue U Property, in the amount of \$875,000.00, to Wachtel Masyr & Missry LLP at 885 Second Avenue, 47th Floor, New York, New York 10017;
 - (vi) the following closing costs associated with the purchase of the Avenue U Property:

Title Bill (including local and state transfer taxes):	\$88,147.69
Title Closer fee:	\$250.00
Legal Fee of Seller:	\$2,650.00
Working Capital Contribution:	\$5,000.00
Interest Calculation per Contract:	\$96,299.00
Attorney Fees for Avenue U Partners, LLC	\$6,500.00
Common Charges Payable: May and June 2015	\$6,955.92
Move-in Fee:	<u>\$500.00</u>

TOTAL \$206,302.61

- (vii) any remaining net balance of the sale proceeds shall be forwarded to the Defendant's undersigned counsel, to be held in the Brownstein Booth & Associates Trust Account, pending the conclusion of the criminal case.
- d. At the conclusion of all forfeiture proceedings relating to the Bal Harbour Property, any net proceeds held in the Brownstein Booth & Associates Trust Account shall be disposed of according to law.

SO ORDERED AND ENDORSED:



The Honorable Leo T. Sorokin
United States District Judge